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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/130,593	08/07/1998	HERBERT GUST		6479

30996 7590 08/27/2002

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TIJERAS, NM 87059

EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/27/2002

20

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application N .

09/130,593

Applicant(s)

GUST, HERBERT

Examiner

Sandra M. Nolan

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
**ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: (See the attachment.).

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See the attachment.).  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-16.

Claim(s) withdrawn from consideration: 17-25.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

**ATTACHMENT TO ADVISORY ACTION**

***Claims***

1. Claims 1-25 are pending.

***Non-entry of the Proposed Amendment***

2. The amendment proposed in the response of August 19, 2002 (Paper No. 19), will not be entered.
3. The phrases "plasma etched" and "micro sand-blasting effect" were not recited earlier in the claims. Therefore, their introduction would raise new issues requiring further consideration and/or search.

***Rejections Maintained***

4. The 35 USC 112 rejection of claims 1-16 for new matter, as maintained in section 5 of the May 20, 2002 Office Action (Paper No. 18), is maintained for reasons of record.
5. The 35 USC 103 rejection of claims 1-16 as unpatentable over Heine (US 5,874,170) in view of Krause (US- 5,958,532), as maintained in section 6 of Paper No. 18, is maintained for reasons of record.

***Response to Arguments***

6. Applicant's arguments filed in Paper No. 19 have been fully considered but they are not persuasive.

The arguments in Paper No. 19 will be responded to in the order in which they were presented.

On page 2, applicant argues that the term "morphologically" has been deleted from the claims and, therefore the 35 USC 112 rejection for new matter should be withdrawn.

However, the amendment to claim 1 has not been entered for reasons given above. Accordingly, the 35 USC 112 rejection for new matter is maintained.

On pages 2-4 of Paper No. 19, applicant argues that the plasma polymerization of Heine is not the plasma etching that applicant employs.

However, it is noted that the plasma etching language to which the argument refers has not been entered in claim 1. Applicant is arguing a limitation that is not recited in the claims. See MPEP 2145(VI).

On page 4, applicant argues that Kruse's plasma treatment inserts chemical bonds and does not etch or scuff the surface treated.

However, the "etching" feature that applicant argues is not presented recited in the claims. Again, applicant is arguing a limitation that is not recited in the claims.

Lastly, on page 4, applicant argues that neither reference teaches the etching feature of his invention.

However, the "etching" feature that applicant argues is not presented recited in the claims. Applicant is arguing a limitation that is not recited in the claims.

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***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan  
Patent Examiner  
Technology Center 1700

SMN/smn  
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August 24, 2002